

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 881**

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**Introduced by Assembly Member Chesbro  
(Coauthors: Assembly Members Williams and Yamada)**

February 22, 2013

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An act to amend, *repeal, and add* Sections 8670.40 and 8670.41 of, and to add Section 8670.43 to, the Government Code, relating to oil spills.

### LEGISLATIVE COUNSEL'S DIGEST

AB 881, as amended, Chesbro. Oil spill prevention and administrative fee.

Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed, until January 1, 2015, \$0.065 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal *and thereafter the fee is not to exceed \$0.05 per barrel*. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes, including to cover the costs incurred by the Oiled Wildlife Care Network for training and field collection and search and rescue activities.

This bill would, *instead, on and after January 1, 2015*, increase the maximum annual assessment ~~from \$0.065 to \$0.08~~ per barrel of crude oil or petroleum products and would allow the administrator to adjust

the maximum fee annually based on the percentage increase in the California Consumer Price Index, as specified.

Existing law permits the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing oil spill prevention relating to nontank vessels.

This bill would, *on and after January 1, 2015*, require the fee not to exceed \$3,500 per nontank vessel but would give the administrator discretion to reduce the fee for nontank vessels that pose a reduced risk of pollution and would allow the administrator to adjust the maximum fee annually based on the percentage increase in the California Consumer Price Index, as specified.

This bill would allow the administrator to transfer up to \$2,000,000 in funds from the Oil Spill Prevention and Administration Fund to the Oil Spill Response Trust Fund, as described, to fund specified activities of the Oiled Wildlife Care Network.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 8670.40 of the Government Code is~~
- 2     ~~amended to read:~~
- 3     ~~8670.40. (a) The State Board of Equalization shall collect a~~
- 4     ~~fee in an amount determined by the administrator to be sufficient~~
- 5     ~~to carry out the purposes set forth in subdivision (c), and a~~
- 6     ~~reasonable reserve for contingencies. The annual assessment shall~~
- 7     ~~not exceed eight cents (\$0.08) per barrel of crude oil or petroleum~~
- 8     ~~products. The administrator may adjust the maximum fee annually~~
- 9     ~~based on the percentage increase in the California Consumer Price~~
- 10    ~~Index as determined pursuant to Section 2212 of the Revenue and~~
- 11    ~~Taxation Code.~~
- 12    ~~(b) (1) The oil spill prevention and administration fee shall be~~
- 13    ~~imposed upon a person owning crude oil at the time that crude oil~~
- 14    ~~is received at a marine terminal from within or outside the state,~~
- 15    ~~and upon a person who owns petroleum products at the time that~~
- 16    ~~those petroleum products are received at a marine terminal from~~
- 17    ~~outside this state. The fee shall be collected by the marine terminal~~
- 18    ~~operator from the owner of the crude oil or petroleum products~~

1 based on each barrel of crude oil or petroleum products so received  
2 by means of a vessel operating in, through, or across the marine  
3 waters of the state. In addition, an operator of a pipeline shall pay  
4 the oil spill prevention and administration fee for each barrel of  
5 crude oil originating from a production facility in marine waters  
6 and transported in the state by means of a pipeline operating across,  
7 under, or through the marine waters of the state. The fees shall be  
8 remitted to the board by the terminal or pipeline operator on the  
9 25th day of the month based upon the number of barrels of crude  
10 oil or petroleum products received at a marine terminal or  
11 transported by pipeline during the preceding month. A fee shall  
12 not be imposed pursuant to this section with respect to crude oil  
13 or petroleum products if the person who would be liable for that  
14 fee, or responsible for its collection, establishes that the fee has  
15 been collected by a terminal operator registered under this chapter  
16 or paid to the board with respect to the crude oil or petroleum  
17 product.

18 (2) ~~An owner of crude oil or petroleum products is liable for~~  
19 ~~the fee until it has been paid to the board, except that payment to~~  
20 ~~a marine terminal operator registered under this chapter is sufficient~~  
21 ~~to relieve the owner from further liability for the fee.~~

22 (3) ~~On or before January 20, the administrator shall annually~~  
23 ~~prepare a plan that projects revenues and expenses over three fiscal~~  
24 ~~years, including the current year. Based on the plan, the~~  
25 ~~administrator shall set the fee so that projected revenues, including~~  
26 ~~any interest, are equivalent to expenses as reflected in the current~~  
27 ~~Budget Act and in the proposed budget submitted by the Governor.~~  
28 ~~In setting the fee, the administrator may allow for a surplus if the~~  
29 ~~administrator finds that revenues will be exhausted during the~~  
30 ~~period covered by the plan or that the surplus is necessary to cover~~  
31 ~~possible contingencies. The administrator shall notify the board~~  
32 ~~of the adjusted fee rate, which shall be rounded to no more than~~  
33 ~~four decimal places, to be effective the first day of the month~~  
34 ~~beginning not less than 30 days from the date of the notification.~~

35 (e) ~~The moneys collected pursuant to subdivision (a) shall be~~  
36 ~~deposited into the fund.~~

37 (d) ~~The board shall collect the fee and adopt regulations for~~  
38 ~~implementing the fee collection program.~~

39 (e) ~~The fee described in this section shall be collected solely~~  
40 ~~for all of the following purposes:~~

1 ~~(1) To implement oil spill prevention programs through rules,~~  
2 ~~regulations, leasing policies, guidelines, and inspections and to~~  
3 ~~implement research into prevention and control technology.~~

4 ~~(2) To carry out studies that may lead to improved oil spill~~  
5 ~~prevention and response.~~

6 ~~(3) To finance environmental and economic studies relating to~~  
7 ~~the effects of oil spills.~~

8 ~~(4) To implement, install, and maintain emergency programs,~~  
9 ~~equipment, and facilities to respond to, contain, and clean up oil~~  
10 ~~spills and to ensure that those operations will be carried out as~~  
11 ~~intended.~~

12 ~~(5) To respond to an imminent threat of a spill in accordance~~  
13 ~~with the provisions of Section 8670.62 pertaining to threatened~~  
14 ~~discharges. The cumulative amount of an expenditure for this~~  
15 ~~purpose shall not exceed the amount of one hundred thousand~~  
16 ~~dollars (\$100,000) in a fiscal year unless the administrator receives~~  
17 ~~the approval of the Director of Finance and notification is given~~  
18 ~~to the Joint Legislative Budget Committee. Commencing with the~~  
19 ~~1993-94 fiscal year, and each fiscal year thereafter, it is the intent~~  
20 ~~of the Legislature that the annual Budget Act contain an~~  
21 ~~appropriation of one hundred thousand dollars (\$100,000) from~~  
22 ~~the fund for the purpose of allowing the administrator to respond~~  
23 ~~to threatened oil spills.~~

24 ~~(6) To reimburse the board for costs incurred to implement this~~  
25 ~~chapter and to carry out Part 24 (commencing with Section 46001)~~  
26 ~~of Division 2 of the Revenue and Taxation Code.~~

27 ~~(7) To cover annual costs incurred by the Oiled Wildlife Care~~  
28 ~~Network established by Section 8670.37.5, including costs for~~  
29 ~~training and field collection, and search and rescue activities,~~  
30 ~~pursuant to subdivision (g) of Section 8670.37.5.~~

31 ~~(f) The moneys deposited in the fund shall not be used for~~  
32 ~~responding to an oil spill.~~

33 ~~(g) The moneys deposited in the fund shall not be used to~~  
34 ~~provide a loan to any other fund.~~

35 ~~(h) This section shall become operative on January 1, 2012.~~

36 ~~SEC. 2. Section 8670.41 of the Government Code is amended~~  
37 ~~to read:~~

38 ~~8670.41. (a) The administrator shall charge a nontank vessel~~  
39 ~~owner or operator a reasonable fee, to be collected with each~~  
40 ~~application to obtain a certificate of financial responsibility, in an~~

1 amount not to exceed three thousand five hundred dollars (\$3,500)  
 2 per nontank vessel for the administrator's costs in implementing  
 3 this chapter relating to nontank vessels. The administrator may  
 4 adjust the maximum fee annually based on the percentage increase  
 5 in the California Consumer Price Index as determined pursuant to  
 6 Section 2212 of the Revenue and Taxation Code.

7 (b) ~~Notwithstanding subdivision (a), the administrator may~~  
 8 ~~charge a reduced fee under this section for nontank vessels~~  
 9 ~~determined by the administrator to pose a reduced risk of pollution,~~  
 10 ~~including, but not limited to, vessels used for research or training~~  
 11 ~~and vessels that are moored permanently or rarely move.~~

12 (c) ~~The administrator shall deposit all revenue derived from the~~  
 13 ~~fees imposed under this section in the Oil Spill Prevention and~~  
 14 ~~Administration Fund established in the State Treasury under~~  
 15 ~~Section 8670.38.~~

16 (d) ~~Revenue derived from the fees imposed under this section~~  
 17 ~~may be spent for the purposes listed in subdivision (e) of Section~~  
 18 ~~8670.40, and may not be used for responding to an oil spill.~~

19 *SECTION 1. Section 8670.40 of the Government Code is*  
 20 *amended to read:*

21 8670.40. (a) The State Board of Equalization shall collect a  
 22 fee in an amount determined by the administrator to be sufficient  
 23 to carry out the purposes set forth in subdivision (e), and a  
 24 reasonable reserve for contingencies. The annual assessment shall  
 25 not exceed six and one-half cents (\$0.065) per barrel of crude oil  
 26 or petroleum products. ~~Beginning January 1, 2015, the annual~~  
 27 ~~assessment shall not exceed five cents (\$0.05) per barrel of crude~~  
 28 ~~oil or petroleum products.~~

29 (b) (1) The oil spill prevention and administration fee shall be  
 30 imposed upon a person owning crude oil at the time that crude oil  
 31 is received at a marine terminal from within or outside the state,  
 32 and upon a person who owns petroleum products at the time that  
 33 those petroleum products are received at a marine terminal from  
 34 outside this state. The fee shall be collected by the marine terminal  
 35 operator from the owner of the crude oil or petroleum products  
 36 based on each barrel of crude oil or petroleum products so received  
 37 by means of a vessel operating in, through, or across the marine  
 38 waters of the state. In addition, an operator of a pipeline shall pay  
 39 the oil spill prevention and administration fee for each barrel of  
 40 crude oil originating from a production facility in marine waters

1 and transported in the state by means of a pipeline operating across,  
2 under, or through the marine waters of the state. The fees shall be  
3 remitted to the board by the terminal or pipeline operator on the  
4 25th day of the month based upon the number of barrels of crude  
5 oil or petroleum products received at a marine terminal or  
6 transported by pipeline during the preceding month. A fee shall  
7 not be imposed pursuant to this section with respect to crude oil  
8 or petroleum products if the person who would be liable for that  
9 fee, or responsible for its collection, establishes that the fee has  
10 been collected by a terminal operator registered under this chapter  
11 or paid to the board with respect to the crude oil or petroleum  
12 product.

13 (2) An owner of crude oil or petroleum products is liable for  
14 the fee until it has been paid to the board, except that payment to  
15 a marine terminal operator registered under this chapter is sufficient  
16 to relieve the owner from further liability for the fee.

17 (3) On or before January 20, the administrator shall annually  
18 prepare a plan that projects revenues and expenses over three fiscal  
19 years, including the current year. Based on the plan, the  
20 administrator shall set the fee so that projected revenues, including  
21 any interest, are equivalent to expenses as reflected in the current  
22 Budget Act and in the proposed budget submitted by the Governor.  
23 In setting the fee, the administrator may allow for a surplus if the  
24 administrator finds that revenues will be exhausted during the  
25 period covered by the plan or that the surplus is necessary to cover  
26 possible contingencies. The administrator shall notify the board  
27 of the adjusted fee rate, which shall be rounded to no more than  
28 four decimal places, to be effective the first day of the month  
29 beginning not less than 30 days from the date of the notification.

30 (c) The moneys collected pursuant to subdivision (a) shall be  
31 deposited into the fund.

32 (d) The board shall collect the fee and adopt regulations for  
33 implementing the fee collection program.

34 (e) The fee described in this section shall be collected solely  
35 for all of the following purposes:

36 (1) To implement oil spill prevention programs through rules,  
37 regulations, leasing policies, guidelines, and inspections and to  
38 implement research into prevention and control technology.

39 (2) To carry out studies that may lead to improved oil spill  
40 prevention and response.

1 (3) To finance environmental and economic studies relating to  
2 the effects of oil spills.

3 (4) To implement, install, and maintain emergency programs,  
4 equipment, and facilities to respond to, contain, and clean up oil  
5 spills and to ensure that those operations will be carried out as  
6 intended.

7 (5) To respond to an imminent threat of a spill in accordance  
8 with the provisions of Section 8670.62 pertaining to threatened  
9 discharges. The cumulative amount of an expenditure for this  
10 purpose shall not exceed the amount of one hundred thousand  
11 dollars (\$100,000) in a fiscal year unless the administrator receives  
12 the approval of the Director of Finance and notification is given  
13 to the Joint Legislative Budget Committee. Commencing with the  
14 1993–94 fiscal year, and each fiscal year thereafter, it is the intent  
15 of the Legislature that the annual Budget Act contain an  
16 appropriation of one hundred thousand dollars (\$100,000) from  
17 the fund for the purpose of allowing the administrator to respond  
18 to threatened oil spills.

19 (6) To reimburse the board for costs incurred to implement this  
20 chapter and to carry out Part 24 (commencing with Section 46001)  
21 of Division 2 of the Revenue and Taxation Code.

22 (7) To cover costs incurred by the Oiled Wildlife Care Network  
23 established by Section 8670.37.5 for training and field collection,  
24 and search and rescue activities, pursuant to subdivision (g) of  
25 Section 8670.37.5.

26 (f) The moneys deposited in the fund shall not be used for  
27 responding to an oil spill.

28 (g) The moneys deposited in the fund shall not be used to  
29 provide a loan to any other fund.

30 ~~(h) This section shall become operative on January 1, 2012.~~

31 *(h) This section shall remain in effect only until January 1, 2015,*  
32 *and as of that date is repealed, unless a later enacted statute, that*  
33 *is enacted before January 1, 2015, deletes or extends that date.*

34 SEC. 2. Section 8670.40 is added to the Government Code, to  
35 read:

36 8670.40. (a) *The State Board of Equalization shall collect a*  
37 *fee in an amount determined by the administrator to be sufficient*  
38 *to carry out the purposes set forth in subdivision (e), and a*  
39 *reasonable reserve for contingencies. The annual assessment shall*  
40 *not exceed eight cents (\$0.08) per barrel of crude oil or petroleum*

1 *products. The administrator may adjust the maximum fee annually*  
2 *based on the percentage increase in the California Consumer Price*  
3 *Index as determined pursuant to Section 2212 of the Revenue and*  
4 *Taxation Code.*

5 *(b) (1) The oil spill prevention and administration fee shall be*  
6 *imposed upon a person owning crude oil at the time that crude oil*  
7 *is received at a marine terminal from within or outside the state,*  
8 *and upon a person who owns petroleum products at the time that*  
9 *those petroleum products are received at a marine terminal from*  
10 *outside this state. The fee shall be collected by the marine terminal*  
11 *operator from the owner of the crude oil or petroleum products*  
12 *based on each barrel of crude oil or petroleum products so*  
13 *received by means of a vessel operating in, through, or across the*  
14 *marine waters of the state. In addition, an operator of a pipeline*  
15 *shall pay the oil spill prevention and administration fee for each*  
16 *barrel of crude oil originating from a production facility in marine*  
17 *waters and transported in the state by means of a pipeline*  
18 *operating across, under, or through the marine waters of the state.*  
19 *The fees shall be remitted to the board by the terminal or pipeline*  
20 *operator on the 25th day of the month based upon the number of*  
21 *barrels of crude oil or petroleum products received at a marine*  
22 *terminal or transported by pipeline during the preceding month.*  
23 *A fee shall not be imposed pursuant to this section with respect to*  
24 *crude oil or petroleum products if the person who would be liable*  
25 *for that fee, or responsible for its collection, establishes that the*  
26 *fee has been collected by a terminal operator registered under this*  
27 *chapter or paid to the board with respect to the crude oil or*  
28 *petroleum product.*

29 *(2) An owner of crude oil or petroleum products is liable for*  
30 *the fee until it has been paid to the board, except that payment to*  
31 *a marine terminal operator registered under this chapter is*  
32 *sufficient to relieve the owner from further liability for the fee.*

33 *(3) On or before January 20, the administrator shall annually*  
34 *prepare a plan that projects revenues and expenses over three*  
35 *fiscal years, including the current year. Based on the plan, the*  
36 *administrator shall set the fee so that projected revenues, including*  
37 *any interest, are equivalent to expenses as reflected in the current*  
38 *Budget Act and in the proposed budget submitted by the Governor.*  
39 *In setting the fee, the administrator may allow for a surplus if the*  
40 *administrator finds that revenues will be exhausted during the*

1 *period covered by the plan or that the surplus is necessary to cover*  
2 *possible contingencies. The administrator shall notify the board*  
3 *of the adjusted fee rate, which shall be rounded to no more than*  
4 *four decimal places, to be effective the first day of the month*  
5 *beginning not less than 30 days from the date of the notification.*

6 *(c) The moneys collected pursuant to subdivision (a) shall be*  
7 *deposited into the fund.*

8 *(d) The board shall collect the fee and adopt regulations for*  
9 *implementing the fee collection program.*

10 *(e) The fee described in this section shall be collected solely for*  
11 *all of the following purposes:*

12 *(1) To implement oil spill prevention programs through rules,*  
13 *regulations, leasing policies, guidelines, and inspections and to*  
14 *implement research into prevention and control technology.*

15 *(2) To carry out studies that may lead to improved oil spill*  
16 *prevention and response.*

17 *(3) To finance environmental and economic studies relating to*  
18 *the effects of oil spills.*

19 *(4) To implement, install, and maintain emergency programs,*  
20 *equipment, and facilities to respond to, contain, and clean up oil*  
21 *spills and to ensure that those operations will be carried out as*  
22 *intended.*

23 *(5) To respond to an imminent threat of a spill in accordance*  
24 *with the provisions of Section 8670.62 pertaining to threatened*  
25 *discharges. The cumulative amount of an expenditure for this*  
26 *purpose shall not exceed the amount of one hundred thousand*  
27 *dollars (\$100,000) in a fiscal year unless the administrator receives*  
28 *the approval of the Director of Finance and notification is given*  
29 *to the Joint Legislative Budget Committee. Commencing with the*  
30 *1993–94 fiscal year, and each fiscal year thereafter, it is the intent*  
31 *of the Legislature that the annual Budget Act contain an*  
32 *appropriation of one hundred thousand dollars (\$100,000) from*  
33 *the fund for the purpose of allowing the administrator to respond*  
34 *to threatened oil spills.*

35 *(6) To reimburse the board for costs incurred to implement this*  
36 *chapter and to carry out Part 24 (commencing with Section 46001)*  
37 *of Division 2 of the Revenue and Taxation Code.*

38 *(7) To cover annual costs incurred by the Oiled Wildlife Care*  
39 *Network established by Section 8670.37.5, including costs for*

1 *training and field collection, and search and rescue activities,*  
2 *pursuant to subdivision (g) of Section 8670.37.5.*

3 *(f) The moneys deposited in the fund shall not be used for*  
4 *responding to an oil spill.*

5 *(g) The moneys deposited in the fund shall not be used to provide*  
6 *a loan to any other fund.*

7 *(h) This section shall become operative on January 1, 2015.*

8 *SEC. 3. Section 8670.41 of the Government Code is amended*  
9 *to read:*

10 8670.41. (a) The administrator shall charge a nontank vessel  
11 owner or operator a reasonable fee, to be collected with each  
12 application to obtain a certificate of financial responsibility, in an  
13 amount that is based upon the administrator's costs in  
14 implementing this chapter relating to nontank vessels. Before  
15 January 1, 2005, the fee shall be two thousand five hundred dollars  
16 (\$2,500), or less per vessel.

17 (b) The administrator may charge a reduced fee under this  
18 section for nontank vessels determined by the administrator to  
19 pose a reduced risk of pollution, including, but not limited to,  
20 vessels used for research or training and vessels that are moored  
21 permanently or rarely move.

22 (c) The administrator shall deposit all revenue derived from the  
23 fees imposed under this section in the Oil Spill Prevention and  
24 Administration Fund established in the State Treasury under  
25 Section 8670.38.

26 (d) Revenue derived from the fees imposed under this section  
27 may be spent for the purposes listed in subdivision (e) of Section  
28 8670.40, and may not be used for responding to an oil spill.

29 *(e) This section shall remain in effect only until January 1, 2015,*  
30 *and as of that date is repealed, unless a later enacted statute, that*  
31 *is enacted before January 1, 2015, deletes or extends that date.*

32 *SEC. 4. Section 8670.41 is added to the Government Code, to*  
33 *read:*

34 8670.41. (a) The administrator shall charge a nontank vessel  
35 owner or operator a reasonable fee, to be collected with each  
36 application to obtain a certificate of financial responsibility, in  
37 an amount not to exceed three thousand five hundred dollars  
38 (\$3,500) per nontank vessel for the administrator's costs in  
39 implementing this chapter relating to nontank vessels. The  
40 administrator may adjust the maximum fee annually based on the

1 *percentage increase in the California Consumer Price Index as*  
2 *determined pursuant to Section 2212 of the Revenue and Taxation*  
3 *Code.*

4 *(b) Notwithstanding subdivision (a), the administrator may*  
5 *charge a reduced fee under this section for nontank vessels*  
6 *determined by the administrator to pose a reduced risk of pollution,*  
7 *including, but not limited to, vessels used for research or training*  
8 *and vessels that are moored permanently or rarely move.*

9 *(c) The administrator shall deposit all revenue derived from the*  
10 *fees imposed under this section in the Oil Spill Prevention and*  
11 *Administration Fund established in the State Treasury under*  
12 *Section 8670.38.*

13 *(d) Revenue derived from the fees imposed under this section*  
14 *may be spent for the purposes listed in subdivision (e) of Section*  
15 *8670.40, and may not be used for responding to an oil spill.*

16 *(e) This section shall become operative on January 1, 2015.*

17 ~~SEC. 3.~~

18 *SEC. 5.* Section 8670.43 is added to the Government Code, to  
19 read:

20 8670.43. To the extent that the interest earned on the Oil Spill  
21 Response Trust Fund is insufficient to meet the appropriation in  
22 subparagraph (A) of paragraph (2) of subdivision (l) of Section  
23 8670.48, the administrator may transfer up to two million dollars  
24 (\$2,000,000) in funds from the Oil Spill Prevention and  
25 Administration Fund to the Oil Spill Response Trust Fund to be  
26 used, upon appropriation by the Legislature, to cover the annual  
27 costs of the Oiled Wildlife Care Network described in paragraph  
28 (7) of subdivision (e) of Section 8670.40.